IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 16277 of 2000

Between:

1. Item Peraiah s/o. Subbauag, Aged 65 years,
   Cultivation, R/o. Krishnapuram, Darsi (M),
   Prakasam District.
2. Chimmini Venkataswamy S/o. Chine Jangamaiah
   Aged 60 years, Cultivation, R/o. Krishnapuram,
   Darsi Mandal, Prakasam District.

..... PETITIONERS

AND

1 The Special Commissioner & Director of Settlements,
A.P., Hyderabad
2 The Mandal Revenue Officer
Darsi, Prakasam District.
3 The Joint Collector & Settlement Officer,
Prakasam District, Ongole.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue Writ of Certiorari or any other writ, order or direction in the nature of a writ, calling for the records relating to the

order in R.P.No.141/84/A2, dt: 1/6/2000 of the 1st respondent and to quash the same as illegal and without jurisdiction and pass

Counsel for the Petitioner: MR.G.PEDDA BABU

Counsel for the Respondent No. 1 to 3: GP FOR REVENUE

The Court made the following :

ORDER:

The father of the 2nd petitioner Chimmini China Jangamaiah and one Chimmini Subbaiah are brothers and they owned Ac.12.81 cents of land inSy. No. 34/2 of Pedda Vuyyalawada Village of Darsi Mandal. The 2nd petitioner is the only son of his father and the first petitioner is the husband of only daughter of Chimmini Subbaiah. It is submitted that since the lands were situated in Venkatagiri Zamindar's Estate, which was abolished by Act 26 of 1948, the petitioners herein made a claim for grant of ryotwari patta for the said land before the Settlement Officer, Nellore, who after conducting a detailed enquiry, gave a categorical finding that the petitioners and their ancestors were in possession and enjoyment of the land prior to 1.7.1945 and granted ryotwari patta. While so, in exercise of the suo moto powers under Sec. 5(2) of the Act, the first respondent –Director of Settlements, A.P., Hyderabad, issued notice and the first respondent heard the matter on 22.4.2000 and allowed the revision setting aside the Settlement Officer's order and classified the land as assessed waste dry in the village accounts.

Now the learned counsel for the petitioners submitted that suo motu revision has to be exercised within a reasonable time, whereas, in the instant case such power is exercised after expiry of 17 long years and, therefore, the impugned order is liable to be set aside and reliance is sought to be placed on a catena of decisions viz., *State of*

Gujarat Vs. Patel Raghav Natha and others (); Kalleti Chengaiah Vs. Director of Settlement and others(); A.Kondanda Rao and another Vs. Government of A.P. represented by the District Collector, Srikakulam() and *Mirza Muzamdar Hussain Vs. Dodla Bhaskara Reddy and others().*

On the other hand, the learned Government Pleader for Revenue, contends that where it comes to the knowledge that the petitioners have obtained any order after playing fraud, no limitation is prescribed to initiate suo motu review by the Authority. He further contends that the patta was granted based on the cist receipts and since no order record of pre-abolition period is filed, the first respondent is justified in initiating suo motu revision. Contending so, he sought to place reliance on a Bench decision of this court in *Director of Settlements, Hyderabad and others Vs. Neerupaka Rama Krishna()*.

The impugned order, shows that the petitioners filed eight cists receipts relating to 1350 Fasli and some other receipts were of post abolition period and as such they were not considered. That apart, the Tahsildar, assessed the lands as waste dry in the village accounts. On consideration of the evidence, the first respondent found that no documentary evidence of pre abolition estate accounts was produced in support of the claim of the petitioners and in the absence of the same, the genuineness of the cist receipts and other documents is not free from doubt. In such circumstances, the finding of the Division Bench in Neerupaka Rama Krisha's case, that the show cause notice though issued after 35 years, is not liable to be challenged when the ground for the same is one of the fraud, applies in all fours. This finding was arrived at after considering a catena of decisions of this court and the Apex Court. In view of these facts, I am not able to appreciate the contention of the learned counsel for the petitioners. More so, there is no foundation laid for a contention. It is a settled principle of law that for raising even a legal contention, there must be foundation in the pleadings. Therefore, in the absence of such a plea, such a contention cannot be accepted. Accordingly, the

writ petition fails and is dismissed. No order as to costs.

Elipe Dharma Rao, J.

July 5, 2005

MAS

To

1 The Special Commissioner & Director of Settlements,
A.P., Hyderabad
2 The Mandal Revenue Officer
Darsi, Prakasam District.
3 The Joint Collector & Settlement Officer,
Prakasam District, Ongole.

4 2 CCs to the Govt. Pleader for Revenue, A.P. High Court

Buildings, Hyderabad.

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